TIMISKAMING FIRST NATION

NOTRE-DAME-DU-NORD
18 ALGONQUIN AVE.
P.O. BOX 336
QUEBEC J0Z 3B0

TEL: (819) 723-2335
FAX: (819) 723-2353

244 P ☐ NP ☐ DM24

Projets de réserves de biodiversité du lac Opasatica, du lac des Quinze, de la forêt Piché-Lemoine et du réservoir Decelles

Abitibi-Témiscamingue 6212-01-207

Friday, July 6, 2007

Sophie Hamel -Dufour, M. Sc.
Service de l'expertise environnementale
Bureau d'audiences publiques sur l'environnement
Édifice Lomer-Gouin
575, rue Saint-Amable 2e étage
Québec (Québec) G1R 6A6

Fax: 418-643-9474

Re: Timiskaming First Nation & Bullrock.

Dear Ms. Hamel-Dufour,

This letter is with reference to the BAPE's recent consideration of protected status for Bullrock. As you know, the Timiskaming First Nation Council has been involved in number of parallel efforts related to Bullrock, including the process to obtain protected status. Recently our Council has considered the issues and we have developed a statement on the issue of stewardship at Bullrock, which is enclosed.

As you will see from reviewing the enclosed document, at this time we feel that the protected status designation and the BAPE process are not the most appropriate vehicles for considering and protecting the Timiskaming First Nation's interests at the site. We will be seeking to enter into discussions with MRNF to look at what other options might be available.

In the meantime, I want to thank you and your colleagues for the time and effort spent on this file.

Megweetch

Chief Conrad Polson
Timiskaming First Nation

cc Nadine Gaudaur, Timiskaming First Nation
Peter Di Gangi, Director, ANS

TIMISKAMING FIRST NATION

STATEMENT ON

STEWARDSHIP OF BULLROCK

6 July 2007

Background.

The area known as Bullrock is about 30 kilometres north of the Timiskaming Reserve, and south of Opasatica Lake, just east of the Ontario-Quebec border (see map, Annex 1). Bullrock lies within the traditional territory of the Timiskaming First Nation (TFN). It is one of the few areas within the Quebec portion of TFN's territory that still retains forest cover, and is home to a number of wildlife and plant species that are important to community members.

Over the past few years, TFN has been in discussions with the government of Quebec regarding Bullrock. There have also been discussions with Tembec over issues related to logging and the construction of roads in the locality. Most recently, there has been consideration of protected status for the area.

Throughout this period, TFN has been consulting its members and reviewing the evidence related to its Aboriginal title interests, in order to determine the best way of ensuring that the community's rights and needs are considered and accommodated with respect to the future management of Bullrock. As part of this process, TFN has also taken a close look at the various processes which have been used to date to try and address its interests at Bullrock.

TFN has concluded that the existing forums for addressing the management of Bullrock do not adequately provide for a full consideration of TFN's rights and interests in the area. Because of this, it is unlikely that they could lead to acceptable measures for accommodation. Therefore we need to work and find a more effective mechanism which allows for authentic consultation and cooperative measures, to provide a satisfactory role for TFN in the management and stewardship of Bullrock. This requires a creative approach which allows for the modification of existing management regimes, in order to fully accommodate TFN's assertion of Aboriginal title and rights within Bullrock.

As a result, this document has been prepared for distribution to the Government of Quebec, the BAPE, and Tembec, so that each of these parties receives the same message at the same time.

There are a number of key issues that must be taken into account by Quebec government agencies and third parties in any discussion of the Bullrock area. Some of these relate to the factual situation of TFN. Some of these relate more to the Government of Quebec and third parties. Each of these are discussed in turn below.

Key Issues for TFN at Bullrock.

Here are some of the key issues that relate to TFN's rights, interests, and priorities in the area:

- **Aboriginal title:** Bullrock is squarely within the core traditional territory of the Timiskaming First Nation (see map, Annex 1). The traditional territory of TFN is covered by unextinguished Aboriginal title & rights. A considerable amount of evidence has been gathered to show proof of TFN title within its territory, including long standing historic

use and occupation of Bullrock and the surrounding area.

- **Shrinking forest cover and habitat:** Bullrock's importance to TFN is magnified because it is one of the few forested areas left inside the Quebec portion of TFN's traditional territory, and it contains important wildlife and plant habitat that continue to be used by TFN members.

- **Current use & occupation:** Today Bullrock is used and occupied by TFN members for cultural and spiritual purposes, as well as for the harvesting of fish, wildlife and plants. Current use and occupation of the area was further documented during land use studies carried out in 1996-97. More recently, specific areas of Bullrock have been identified for special cultural and educational measures in addition to existing current use.

- **Direction from the Elders:** TFN has received strong direction from the Elders to ensure that Bullrock is managed holistically, in a way that protects habitat and ensures that the area is available for current and future generations to practise their customs and traditions. They want timber operations to cease in Bullrock.

Together, these key points underline the fact that TFN has a strong factual basis from which to assert its Aboriginal title and rights within Bullrock and the surrounding area. They also show that the Elders, and the community, have set out clear principles and objectives for TFN's future efforts regarding Bullrock.

Key Issues for the Government of Quebec & Third parties.

Another set of issues relate to the government of Quebec and third parties, and also require our attention:

- **Existing processes do not consider Aboriginal rights & title:** The process used by the Ministry of Sustainable Development, Environment & Parks for designating protected areas does not explicitly take into account Aboriginal title & rights as a factor in its consideration of requests, or in the subsequent management regime.

  Similarly, our understanding is that the BAPE process does not explicitly consider Aboriginal title & rights when it carries out its assessments.

  In any event, the proposed protected area management committee, which would be established as an outcome of protected area status, would ignore TFN's assertion of Aboriginal title & rights and it's special relationship to Bullrock. Instead, TFN would simply be treated as one stakeholder among many, and final decisions would still remain with MRNF.

It is impossible to properly assess TFN's interests in the area, much less accommodate them, without considering TFN's assertion of Aboriginal title & rights. In this respect, the processes mentioned above are not consistent with the requirements of existing case law. They are also at odds with the government of Quebec's Guide for consultations with First Nations, released in the spring of 2006, which explicitly calls for a consideration of Aboriginal rights and title when they have been asserted by a First Nation.

- **Competing forms of tenure are being issued:** It is understood that during TFN's discussions with Quebec over the status of Bullrock, the provincial government has continued to issue forms of tenure in the area - specifically, mining exploration permits. This is being done without consultation, and will further complicate the ability of the parties to reach satisfactory arrangements regarding the use and management of Bullrock.

- **Forestry Operations and Roads:** Ongoing forest operations in Bullrock compromise TFN's goal of having this area protected, and also negatively impact on the prospects for managing wildlife and plant habitat properly. Tembec's effort to subdivide Bullrock into different zones will act to further fragment the area and work against long term efforts to manage Bullrock holistically.

  TFN's concerns about Tembec's activities go beyond the cutting of trees: extending the road system into Bullrock has opened the door to increased access & use by non-Algonquins, putting further pressure on resources and introducing additional competition for those resources. This seriously prejudices TFN's efforts to protect the area for its members.

These key issues for the Government of Quebec and third parties highlight the fact that the approaches taken to date do not adequately consider TFN's assertion of Aboriginal title and rights. Furthermore, actions on the ground (continued cutting, roads, and the issuing of tenures within the area) are working to undermine TFN's efforts to protect the area.

Conclusions and Request.

Based on the above, TFN has concluded that a new approach must be taken regarding Bullrock. In the overall scheme of things, Bullrock is a small area for the Government of Quebec. Similarly, for Tembec Bullrock is just another place to cut. In contrast, for the reasons set out above, Bullrock has significant importance for TFN.

Despite the importance of Bullrock to TFN, existing processes and regimes simply have not, and will not, consider or accommodate TFN's interests adequately. A modified regime needs to be developed that will allow for full consideration of TFN's Aboriginal interests, and some form of accommodation that allows for a substantive and meaningful role for TFN in the management and stewardship of Bullrock.

At the same time, immediate measures need to be taken to put development at Bullrock on hold, until satisfactory medium and long term arrangements are worked out regarding management of the area. Otherwise, there will be nothing left to protect or manage. In particular, there should be a moratorium on new roads and on cutting, and no new tenures should be given out.

TFN wants to work cooperatively with the Government of Quebec and third parties to ensure mutual benefit and harmonious relations. At the same time, however, TFN must also ensure that its Aboriginal interests in Bullrock are considered and adequately protected.

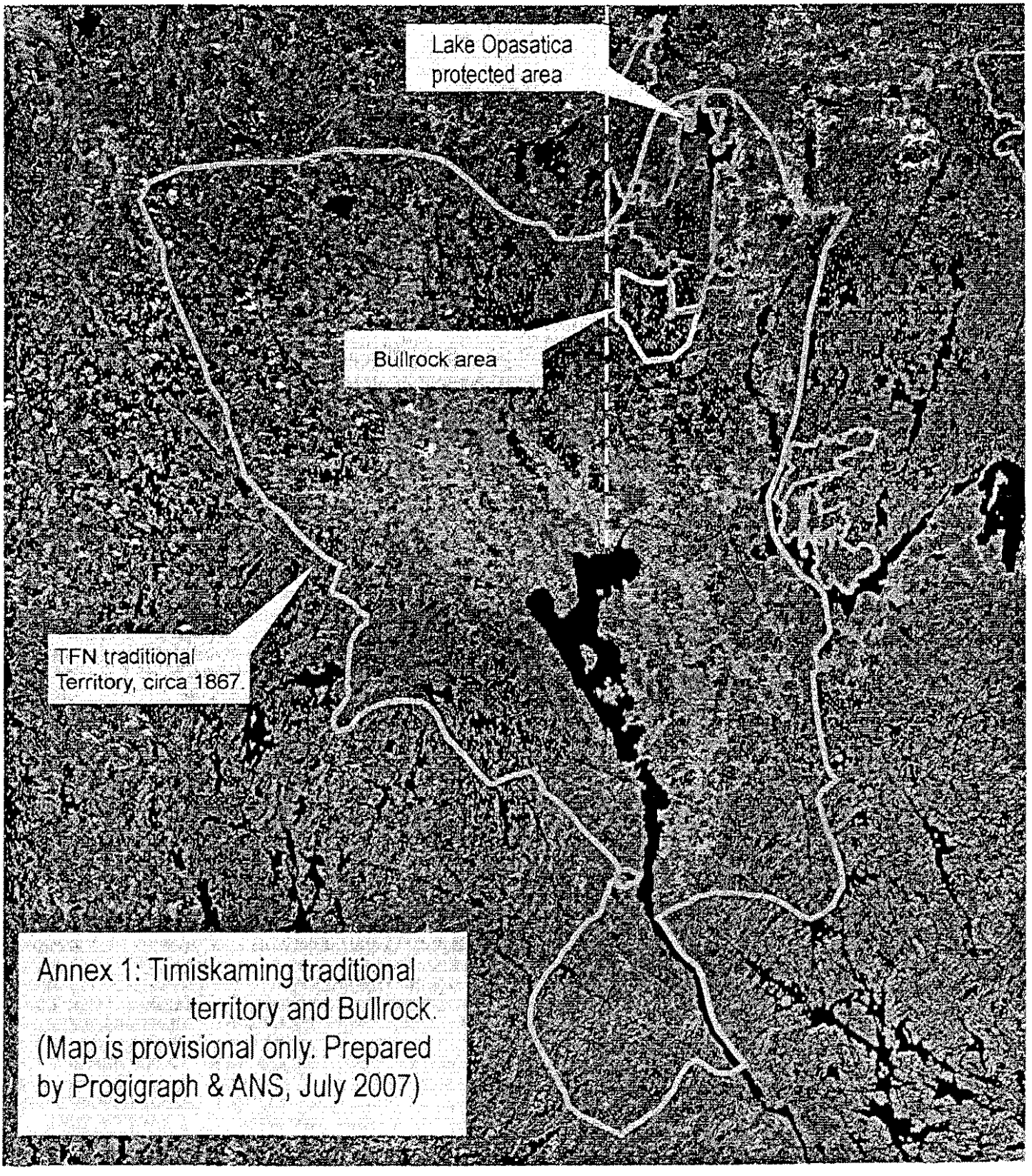
TFN is therefore seeking a series of commitments from the Government of Quebec:

- That Quebec will enter into discussions with TFN to sketch out the parameters of a process which will allow for a full consideration of TFN's assertion of Aboriginal title interests in Bullrock, consistent with Quebec's Guide for consultation & accommodation with First Nations, and pursuant to the consultation pilot project which is currently in place between the Government of Quebec and the Algonquin Nation Secretariat.

- We believe that based on the facts the parties shall find justification for accommodation. This process should then lead to discussions on a management regime which would provide TFN with a substantive and meaningful role in management of Bullrock.

- At the same time, in the immediate term, concrete and meaningful measures must be put into place to preserve what is left of the ecological integrity of Bullrock. This includes a moratorium on all new roads and cutting.

We look forward to discussing these matters with representatives of the Government of Quebec at the earliest point that a mutually convenient time and location can be agreed upon.



Annex 1: Timiskaming traditional territory and Bullrock.
(Map is provisional only. Prepared by Progigraph & ANS, July 2007)